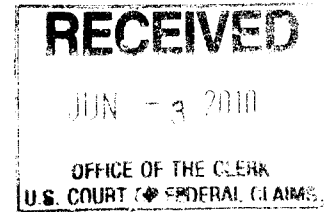


IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS
No. 06-521V
Filed: June 3, 2010



RAY BALDONADO,

Petitioner,

v.

SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

Respondent.

DECISION ON JOINT STIPULATION

Vowell, Special Master:

Ray Baldonado filed a petition (Pet.) for compensation under the National Vaccine Injury Compensation Program¹ on July 14, 2006. Petitioner alleges that he developed brachial neuritis as a result of an influenza vaccination he received on November 18, 2003. See Pet. at 1. Respondent denies that petitioner's brachial neuritis was caused-in-fact by his influenza vaccination. Stipulation, filed May 12, 2010, at ¶ 6.

Nevertheless, the parties have agreed to settle the case. On May 12, 2010, the parties filed a joint stipulation agreeing to settle this case and describing the settlement terms. Respondent agreed to pay petitioner:


A lump sum payment of **\$500,000** in the form of a check payable to petitioner, Ray Baldonado. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

The special master adopts the parties' stipulation attached hereto, and awards compensation in the amount and on the terms set forth therein. In the absence of a

¹ As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, "the entire decision" will be available to the public. *Id.*

motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment in accordance with this decision.²

IT IS SO ORDERED.


Denise K. Vowell
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

RAY BALDONADO,)	
)	
Petitioner,)	
)	
v.)	No. 06-521V
)	Special Master Vowell
SECRETARY OF HEALTH AND HUMAN)	
SERVICES,)	
)	
Respondent.)	
)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Petitioner filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 to 34 (the "Vaccine Program"). The petition seeks compensation for injuries allegedly related to petitioner's receipt of the influenza vaccine, a vaccine that is contained in the Vaccine Injury Table (the "Table"), 42 U.S.C. § 300aa-14(a); 42 C.F.R. § 100.3(a).
2. Petitioner received his influenza immunization on November 18, 2003.
3. The vaccine was administered within the United States.
4. Petitioner alleges that he developed brachial neuritis as a result of his November 18, 2003, influenza vaccination.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on his behalf as a

result of his condition.

6. Respondent denies that petitioner's brachial neuritis was caused-in-fact by his influenza vaccination.

7. Maintaining their above-stated positions, the parties nevertheless now agree that the issues between them shall be settled and that a decision should be entered awarding the compensation described in paragraph 8 of this Stipulation.

8. As soon as practicable after entry of judgment reflecting a decision consistent with the terms of this Stipulation, and after petitioner has filed an election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), the Secretary of Health and Human Services will issue a lump sum payment of \$500,000.00 in the form of a check payable to petitioner. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

9. As soon as practicable after the entry of judgment on entitlement in this case, and after petitioner has filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the parties will submit to further proceedings before the special master to award reasonable attorneys' fees and costs incurred in proceeding upon this petition.

10. Payments made pursuant to paragraphs 8 and 9 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-

15(i), subject to the availability of sufficient statutory funds.

11. The parties and their attorneys further agree and stipulate that the money provided pursuant to this Stipulation will be used solely for the benefit of petitioner as contemplated by a strict construction of 42 U.S.C. § 300aa-15(a) and (d), and subject to the conditions of 42 U.S.C. § 300aa-15(g) and (h).

12. In return for the payments described in paragraphs 8 and 9, petitioner does forever and fully expressly release, acquit and discharge the Secretary of Health and Human Services and the United States of America from any and all actions, causes of action, agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature on account of, or in any way growing out of, any and all known or unknown personal injuries to or death of petitioner resulting from, or alleged to have resulted from, the influenza vaccination administered on November 18, 2003, as alleged by petitioner in a petition for vaccine compensation filed on or about July 14, 2006, in the United States Court of Federal Claims as petition No. 06-521V.

13. If petitioner should die prior to receiving the payment described in paragraph 8, this agreement shall be considered voidable upon proper notice to the Court on behalf of either or both of the parties.

14. If the special master fails to issue a decision in

complete conformity with the terms of this Stipulation or if the Court of Federal Claims fails to enter judgment in conformity with a decision that is in complete conformity with the terms of this Stipulation, then the parties' settlement and this Stipulation shall be null and void at the sole discretion of either party.

15. This Stipulation expresses a full and complete settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 9 above. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to.

16. All rights and obligations of petitioner hereunder shall apply equally to his successors and assigns.

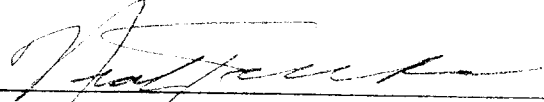
END OF STIPULATION

Respectfully submitted,

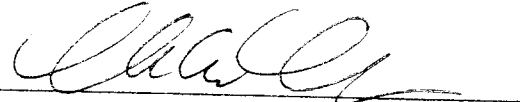
PETITIONER:


RAY BALDONADO

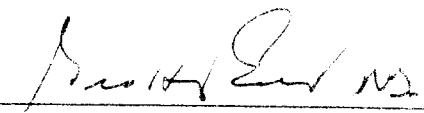
ATTORNEY OF RECORD FOR
PETITIONER:


NEAL J. FIALKOW
215 North Marengo Avenue
Third Floor
Pasadena, CA 91101
(626) 584-2950

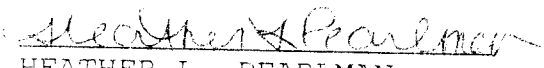
AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:


MARK W. ROGERS
Deputy Director
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146

AUTHORIZED REPRESENTATIVE OF
THE SECRETARY OF HEALTH AND
HUMAN SERVICES:


GEOFFREY EVANS, M.D.
Director, Division of
Vaccine Injury Compensation
Healthcare Systems Bureau
U.S. Department of Health
and Human Services
5600 Fishers Lane
Parklawn Building, Stop 11C-25
Rockville, MD 20857

ATTORNEY OF RECORD FOR
RESPONDENT:


HEATHER L. PEARLMAN
Trial Attorney
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
(202) 353-2699

Dated: May 12, 2010